

BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Annual Report for Calendar Year 1978

Annual Report for Fiscal Year 1978

Submitted by:

Claude E. Welch, M.D., Chairman  
Charlotte B. Cloutier, M.A., Secretary

PUBLICATION: # 11272-24-200-3-79-C.R.

APPROVED BY Alfred C. Holland, State Purchasing Agent

MR  
614.24M3  
B665r  
1978  
c.1

MR  
614.24/M3  
B665r  
1978

TABLE OF CONTENTS

Page No. c.1

1. Function and Purpose.....	1
2. Membership of the Board.....	1
3. Meetings of the Board.....	2
4. Legislation 1978.....	2
5. Licensure - Limited.....	3
6. Licensure - Permanent.....	3
7. Licensure - FLEX.....	3
8. Reregistration of Physicians.....	4
9. Requests for Data Collected through Reregistration.....	4
10. Continuing Medical Education.....	5
11. Affiliations.....	5
12. Physical Therapists.....	6
13. Medical Discipline.....	6
14. Budget.....	7
15. Amendments to Rules and Regulations.....	9
16. Conclusions - Medical Practice in 1978.....	9

# INDEX OF TABLES\*

<u>Table</u>		<u>Page</u>
I	FY 78 Complaint Disposition by Complaint Committee....	14
II	FY Types of Complaints Requiring Formal Disciplinary Action by Board.....	15
III	Determination in Disciplinary Cases - Calendar 1978...	16-17
IV	Adjudicatory Cases Pending as of January 1, 1979.....	18
V	Volume of Business-Registration of Physicians (1978)..	19
VI	Volume of Business-Registration of Physical Therapists (1978).....	19
VII	Volume of Business-Complaints (1978).....	19
VIII	Income Fiscal 1978.....	20
IX	Two Fiscal Periods Ending June 30, 1978.....	21
X	Income Versus Appropriations.....	22
XI	Time Utilization-Board Members.....	23
XII	Time Utilization-Board Members 1978.....	24

\* Some of the tables in this annual report are based on Fiscal 1978 (July 1 to June 30), others on the calendar year. Please refer to title of each table for clarification.



ANNUAL REPORT FOR FISCAL YEAR 1978

AND FOR CALENDAR YEAR 1978

In compliance with General Laws Chap. 112, sec. 4.

1. Function and Purpose

General Laws Chap. 112, ss. 2 through 12R, sets forth the Activities of the Board of Registration and Discipline in Medicine which include registration of physicians by examination or by endorsement, temporary registration of physicians; limited registration of interns, residents, fellows, medical officers; investigation of complaints, adjudicatory hearings, and disciplinary decisions. The Board also licenses physical therapists by examination or by endorsement. Other functions include verification of registrations for other states and for the Registry of Motor Vehicles, approval of affiliations between teaching hospitals; the initiation of legislation, review of proposed new legislation pertaining to the registration of physicians and to the practice of medicine and to disciplinary proceedings and hearings before the Board; approval of supervising relationship between a physician and a physician assistant, maintenance of a registry of physicians who supervise acupuncturists, and the implementation of continuing medical education requirements for reregistration in 1980. The Board also maintains a directory of all registrants; the information in it is updated biennially through re-registration of physicians and physical therapists.

2. Membership of the Board - General Laws Chap. 13, sec. 10.

<u>Members of the Board</u>	<u>Date of Appointment</u>	<u>Term Expires</u>
George J. Annas, J.D., M.P.H.	December, 1978	1982
Reginald Benn, M.D.	December, 1978	1982
Carl E. Cassidy, M.D.	September, 1977	1980
Charlotte B. Cloutier, M.A.	September, 1977	1980
Jeffrey E. Harris, M.D.	March 30, 1978	1982
Kathleen M. Mogul, M.D.	July 25, 1978	1981
Claude E. Welch, M.D.	January, 1977	1981

Jeffrey E. Harris, M.D. was appointed on March 30, 1978 to replace Stuart Shapiro, M.D. This appointment expired on January 1, 1979. In December, 1978, three members of the Board whose term expired as of January 1, 1979 were reappointed for another three-year term: George J. Annas, J.D., M.P.H., Reginald E. Benn, M.D. and Jeffrey E. Harris, M.D. On July 25, 1978, Kathleen Mogul, M.D. was appointed to replace Valentina Donahue, M.D. whose term had expired on January 1, 1978. Dr. Mogul's term will expire January 1, 1981. The officers of the Board were elected at the Board meeting of January 27, 1978, and are: Claude E. Welch, M.D., Chairman, George J. Annas, J.D., M.P.H., Vice Chairman and Charlotte B. Cloutier, M.A., Secretary. Committee membership was continued on the basis of the 1977 elections, with the exception of Carl E. Cassidy, M.D. who was chosen by the Board to fill the vacancy left by David J. Wallwork, M.D. on the FLEX Test Construction Committee. This Committee meets twice a year in Philadelphia, for the purpose of constructing the FLEX examination administered by all the State boards of the nation.



3. Meetings of the Board - General Laws Chap. 13, sec. 10.

The Board is obligated by statute to meet at least once a month. The Board met 20 times during 1978 on the following dates: January 5 and 27, February 17, March 3 and 31, April 14 and 21, May 15 and 26, June 9 and 29, July 14, August 25, September 8 and 22, October 6 and 27, November 10, December 1 and 15. The Board met 20 times in 1977.

Board meetings are open to the public, unless the Board votes to go into executive session, under the provisions of General Laws, Chap. 30A, sec. 11A (2). The Board has gone into executive session for the disposition of disciplinary actions pending against physicians.

4. Legislation 1978

The Board initiated new legislation in 1978. However, the legislature recessed early and none of the proposed legislation that would have modified the operation of the Board or the practice of medicine was enacted into law. The following bills did not become law in 1978:

Senate 398

This bill introduced by Daniel J. Foley and the Massachusetts Medical Society would have changed the name of the Board of Registration and Discipline in Medicine to Board of Medical Overseers, would have changed the reregistration cycle from two years to three years and would have guaranteed that no more than 50% of the fees collected through registration and reregistration could be reverted to the general fund. The Board remained silent on the issue of the change in name but otherwise strongly supported the bill.

House 2925

This bill introduced by David J. Lane would have changed the period of re-registration for physicians to three years.

House 2377

This bill introduced by A. James Whitney would have empowered the Board to license without examination a physician who is licensed to practice medicine in another country, provided the Board determines that such a person possesses distinguished professional qualifications and his professional qualifications and his professional services would satisfy a distinct and identifiable need in the Commonwealth.

House 2378

This bill introduced by A. James Whitney would have increased the fee for licensure by examination to \$150 for examination and reexamination. The Board filed this because fees had not been revised since 1969. The Commonwealth is currently conducting the FLEX licensing examination for physicians and incurring a loss for each candidate taking it. The Board's statistics reveal that more than 50% of those taking the FLEX examination in Massachusetts are not residents of the Commonwealth.



House 2379

This bill introduced by A. James Whitney would have increased the fee for limited licensure to \$25.00. The Board would have then changed its limited licensure from a one-year to a five-year period. This would have saved a considerable amount of time currently utilized issuing limited licenses for one year. The five-year limited license would have remained valid as long as a licensee had a hospital appointment in the Commonwealth. Changes in hospital appointments would have had to be reported to the Board on a yearly basis and Data Processing would have been utilized to keep track of where physicians on limited licenses were working.

5. Licensure - Limited

Limited licenses are issued to enable physicians to complete their training before obtaining full licensure. Such licenses are issued for a maximum of five years; extensions beyond the five-year period are granted at the discretion of the Board. Twelve limited licenses were extended beyond the five-year period in 1978 as compared to 16 in 1977. The Board also denied extension of three limited licenses. The proposed system is currently being revised and the Board will file a statutory amendment in the fall of 1979, revamping limited and temporary licensure.

6. Licensure - Permanent

Permanent licenses are issued to physicians either by examination (i.e., FLEX) or by endorsement of a physician's certificate from the National Board of Medical Examiners of the United States, or the National Board of Examiners for Osteopathic Physicians and Surgeons of the American Osteopathic Association, or by endorsement of a license from another state, Puerto Rico or Canada. The Board granted permanent licenses to 1582 physicians during fiscal year 1978; 888 were by endorsement of the National Board certificate, 299 by endorsement of other states. Candidates who apply for full licensure on the basis of their endorsement of his/her certification by a specialty board and who have attempted to pass the FLEX examination but failed, may be granted by majority vote of the Board, a license restricting them to the practice of their medical specialty. Should these physicians at a later date successfully pass the FLEX examination, they may apply for licensure not restricted solely to specialty certification. The Board granted six restricted licenses in 1978 in the following specialties: three in radiology, one in pathology and one in otolaryngology and one in preventive medicine.

7. Licensure - FLEX

The Board administered two FLEX examinations in fiscal year 1978; both were held at the New England Exhibition Hall. The cost of the FLEX examinations for fiscal 1978 was \$8,423 for the halls, \$4,047 for the proctors and \$51,340 for the examinations. Fees collected from applicants for the examinations and reexaminations totaled (\$63,250 + \$20,550) \$83,800. The Board refiled its bill to increase the examination fee to \$200.

The Board also revised its policy concerning the number of times a candidate may be admitted to the examination. Following the procedure of more than half of the states, the Board adopted the following policy: beginning with the December, 1978 examination, candidates will be limited to three attempts nationwide. If a candidate fails a third time, he must present evidence of further education and training satisfactory to the Board before being admitted to another examination.



## 8. Reregistration of Physicians

General Laws, Chap. 112, sec. 2, as amended by Chap. 362 of the Acts of 1975, mandates that all physicians registered in Massachusetts renew their certificates of registration on January 15, 1976 and at two-year intervals thereafter, for a fee of \$50.00. Certificates of registration of physicians who do not comply with this new law are automatically revoked, but can be reinstated upon completion of the renewal process. For the audit period, March 2, 1977 to July 31, 1978, receipts resulting from the renewal of certificates by physicians were \$744,300.00.

In addition to generating income, the law also made it possible to verify the number of physicians currently registered in the Commonwealth. As of July 31, 1978, there were 17,460 physicians licensed to practice medicine in Massachusetts.

In November, 1977 the Board of Registration and Discipline in Medicine mailed a thirty (30) question renewal application form to the 15,404 physicians who were currently registered with instructions that the physician was required to answer all questions along with payment of the fifty dollar (\$50.00) fee by certified check or money order. Failure to do so would result in the automatic revocation of the physician's license to practice medicine in Massachusetts pursuant to General Laws, Chap. 112, sec. 2, as amended.

In December, 1977 the Massachusetts Medical Society filed suit against the Board principally because it objected to physicians being required to answer all thirty (30) questions, the requirement that the fee be paid by certified check or money order and to the statutory provision regarding the automatic revocation of a physician's license. In response to this lawsuit, the Board decided that the physicians were required only to answer ten (10) of the questions (1, 3, 8, 9, 11, 15, 16, 18, 19 and 30). All other questions were to be answered on a voluntary basis. The Board also changed the requirement regarding method of payment and would accept payment for the fee by the physician's personal check.

The lawsuit was settled by an Interlocutory Order of Preliminary Injunction entered by the Superior Court on March 8, 1978. This order detailed the procedure which the Board has agreed to follow with regard to contacting the 1,498 physicians who had not renewed their licenses and therefore were subject to the automatic revocation of their license. The order which settled the lawsuit effectively eliminated the January 15, 1978 deadline for reregistration. December 4, 1978 became the new deadline for physicians who received their notices by mail and December 21, 1978 for the physicians who do not receive their notice by mail but receive their notification from a notice published in the New England Journal of Medicine, Massachusetts Medical Society or from a notice published in the hospitals.

## 9. Requests for Data Collected through Reregistration

The reregistration process should normally have been completed by January 15, 1978. However, the Board granted an extension to December 21, 1978. The data generated have to be keypunched and coded. As a result, the new listing of licensed physicians is usually available within a few weeks only, after the forms have been returned to the office. However, the rest of the data is not



available for 18 to 20 months. Recognizing that this is a problem, the Board requested an additional \$4,000 in its 02 account to hire a part-time keypunch operator, so that statistics generated through reregistration may be made available sooner.

During 1978 the Board received 43 requests for information generated by re-registration, most of them from health planning agencies and persons involved in research. Since the Board does not have funds available to publish a directory of all physicians licensed to practice medicine in Massachusetts, it is currently working in cooperation with private concerns and the Massachusetts Medical Society in order to arrive at one format of directory acceptable to all parties, and containing information useful to the public.

10. Continuing Medical Education

Physicians who wish to reregister in 1980 will furnish the Board with evidence of the completion of 100 hours of continuing medical education between 1978 and 1980. The Board sent out its first newsletter to all directors of medical education; it contained details regarding the Board's policy on recording and verifying CME credits, inactive status and waiver of continuing medical education requirements for reregistration in 1980.

During 1978 the Board granted the following:

	<u>Out of Country</u>	<u>Illness</u>
CME Waivers	8	1
Inactive status		2
Individual programs		4

As we are nearing reregistration for 1980, requests for inactive status for physicians not currently practicing medicine in Massachusetts are arriving in larger numbers.

The Board will rely on available information from the AMA, the specialty Boards and the Massachusetts Medical Society to verify accredited continuing medical education activities. Physicians are expected to keep good records of their CME activities and will only have to fill out one CME reporting card in order to reregister in 1980. Physicians' CME records may be audited at a later time.

Physicians currently teaching category 1 courses will be able to claim category 1 credits for teaching as well as the audience. Massachusetts is the only state to recognize teaching as well as attending CME accredited category 1 as counting towards fulfilling the Board's requirements.

11. Affiliations

The Board approved 17 affiliations between health care facilities and/or post-graduate training programs in 1978. The Board's probing into several affiliations has led to the discovery that some hospitals are sending residents out to minor institutions when there are no affiliations, and other hospitals have organized rotations with institutions with which they believed they had affiliations and the record indicated that affiliations were never approved by the Board.



Should data processing be made available to the Board, affiliations and limited licenses will have to be handled this way. Several hospitals in the Commonwealth do not have accurate information regarding what affiliations they have and where their residents should and should not rotate.

12. Physical Therapists

The Board administered two examinations for physical therapists, one in March and one in September. A total of 218 physical therapists appeared at the examinations and 196 new licenses were issued. The Board also granted endorsement licensure to 121 applicants. In 1978, the Board also processed 2249 applications for renewal of physical therapy licenses. The Board has not yet revised the rules and regulations for physical therapists but intends to deal with the problem in the fall of 1979. Hopefully, the number of times a candidate may appear at the licensure examination will be resolved.

13. Medical Discipline

The Board's activities in disciplinary matters are becoming more frequent and time-consuming. During fiscal 1978 the Board received 150 complaints compared to 148 in fiscal 1977. The table enclosed reveals that fewer complaints were closed during this fiscal year than during the last, particularly in the area of complaints of questionable jurisdiction. Complaints received by the Board are increasingly complex and require more investigation.

A. Volume and Types of Complaints

Jurisdictional* complaints	99
Complaints of questionable jurisdiction*	51

As indicated in Table 1, most of the complaints received by the Board are resolved at the level of the Complaint Committee. After review by two Board members, one of whom must be a consumer, a complaint is discussed at a Complaint Committee meeting and then either closed or forwarded to the Board with a recommendation to issue an Order to Show Cause. The Complaint Committee has also utilized the informal conferences as a way of resolving complaints. A total of 8 physicians were asked to appear before the Complaint Committee.

Due to the dedication of our investigator, the Board now has a training manual for future investigators, a well-coordinated system to keep track of all complaints received, and minutes of Complaint Committee meetings. The staff and the members of the Complaint Committee must be congratulated for their dedication and efficiency in dealing with complaints. Medical discipline is an important responsibility of this Board, and it is carried out in the best possible way, given budgetary and staff restrictions.

\* Jurisdictional complaints involve allegations of negligence, misdiagnosis, sexual involvement, fraud, violation of narcotics usage, confirmed alcohol or drug misuse and inadequate consent.

\* Questionable jurisdiction complaints are those needing further investigation to determine the extent and validity of the allegations.

B. Adjudicatory Hearings - Outcomes

The Board issued 11 Orders to Show Cause during calendar year 1978. We began 1978 with 29 cases pending. In the course of the year we reached a decision on 16 cases, 2 defendants died (closing only 1 case) and 3 Orders to Show Cause were withdrawn. Of the 29 cases still pending as of January 1, 1978, we still have 14 open as of January 1, 1979.

The Board disposed of 20 cases during 1978 in the following manner:

Revocations	7
Resignations	3
Exonerations	2
Cases Dismissed	1
Censure	1
Surrender DEA Number	1
Defendant Died	2
Order to Show Cause Withdrawn	3

C. Adjudicatory Hearings - Pending

The Board ended 1978 with 23 cases still pending. Of these, 11 cases have been pending since 1976; 6 since 1977 and 6 in 1978.

Because cases are not necessarily completed in the course of a calendar or fiscal year, it is not easy to compare statistics. However, if one looks at the statistics for the last two years, there are at least 25 cases under prosecution at all times, the Board receives approximately 150 complaints a year, and a very small number of physicians are disciplined in comparison with the number of complaints received.

<u>No. of Complaints</u>	<u>Revocations</u>	<u>Other Disciplinary Actions</u>
FY 77 148	0	8
FY 78 <u>150</u>	<u>7</u>	<u>8</u>
298	7	16

Seen in perspective of the total population under the jurisdiction of the Board, 298 complaints were received and formal action was taken against 23 licensees over a period of three years, for a total population of 17,460 physicians. Hence, about one out of every 18 complaints filed has so far resulted in disciplinary action against a licensee.

14. Budget

The Board formulated its budget request for Fiscal 1980 after full consideration of the recommendations contained in the "Management Audit" of Mr. Mark Abrahams, after review of the Board's Annual Report for Fiscal and Calendar Year 1978, and after discussion with the members of the Malpractice Commission. The Fiscal 1979 budget was filed as a consolidated budget under the Division of Registration. The legislature, however, chose to appropriate monies directly into the Board's account for disciplinary actions and monies into the



Director's account for administrative support. The budget process was painful, to say the least, confusing and vital positions in the Director's budget disappeared and were only reinstated after considerable activity from Board members to convince the legislature that these positions were vital to the Board's ability to function.

The Board filed a budget request for \$439,036.00, separate from the Director's request. The Board does not believe that filing a consolidated budget prior to the legislature approving of a consolidation plan for the Division of Registration is a viable concept. It also does not believe in having duality in budget processes. In the meantime efforts are being made to organize the office internally so that consolidation could be implemented without disrupting too much the ongoing activities of the Board.

The budget request for FY 1980 contains the following:

- 1) The current position of executive secretary is a temporary position in the Director's 02 account. It is not even a Counsel 1 position, yet this person is the Board's chief prosecutor. The Board filed for a Counsel 4 position for its executive secretary. It is believed that the Board could save money in legal consultant fees if it had as chief prosecutor a person with 4 to 6 years of experience in prosecution as well as administrative skills.
- 2) The Board has currently 2 investigator positions. However, one of these positions is filled by an attorney who spends her time prosecuting cases. The Board requested a Counsel 2 position to vacate the investigator slot.
- 3) The Board currently has one investigator to deal with all the complaints and communications received by the Board. Another investigator is needed to relieve the load of work imposed on that person. Furthermore, the Board only investigates complaints it receives from consumers and does not have the manpower to proceed with enforcement of its regulations and follow up on malpractice cases. In the past three months hospitals have begun reporting to the Board revocation of hospital privileges; should these reports increase in number, the Board will not be able to cope with the workload.
- 4) The position of head clerk is upgraded to administrative assistant to relieve the workload of the secretary of the Board. Because of separation of functions, the executive secretary, who is the chief prosecutor, is precluded from acting in several administrative functions.
- 5) A principal clerk's position is requested for accounting bookkeeping and payroll. Evaluations of the Board have recommended the setting up of budgetary control, and a separate budget will necessitate the setting up of a payroll.
- 6) Lastly, there is a request for a clerk receptionist as recommended by Mr. Abraham.



The total budget request for the Board for FY 1980 is \$439,036. In fiscal 1979, the Board had a budget of \$287,498.68 for administrative support and \$105,100 for medical discipline. The Board filed for a deficiency budget for FY 79 for \$100,000. The total cost for FY 79 for the operations of the Board is therefore \$492,598. The FY 80 request is \$53,598 less than the actual cost of FY 79. We believe that the structure we propose in the FY 80 report will lead to further reductions in the FY 81 budget request.

15. Amendments to Rules and Regulations

The Board was active during 1978, both in drafting amendments to its Rules and Regulations in cooperation with the Board of Nursing for the practice of nursing in the expanded role, and with the Department of Public Health for the regulation of clinics.

Adopted during 1978 were the following amendments to the Rules and Regulations governing the practice of medicine:

- 1) A regulation regarding advertisement by physicians. This rule was filed with the Secretary of State on June 29, 1978 and to this date only a few physicians have started advertising.
- 2) A regulation granting to patients access to their medical records. This regulation was filed with the Secretary of State on June 29, 1978.
- 3) The Board amended its regulations to allow physician assistants to apply casts and put in sutures.
- 4) Waivers of CME were further defined and enrollment in a post-graduate education program was accepted in lieu of full-time enrollment.
- 5) Emergency regulations were adopted in order to accept personal checks for reregistration to define incomplete applications for reregistration to extend the deadline for reregistration and finally to require that all physicians report to the Board their change of address.

Rules of Procedure Governing Disciplinary Proceedings were amended on September 22, 1978 to require a physician to respond to the Board, and an emergency regulation for the designation of a hearing officer was adopted on February 17, 1978. Section 2.8 of these Rules was also amended on June 9, 1978 to define availability of Board's records to the public, and define confidential data.

16. Conclusions - Medical Practice in 1978

The purpose of this section will be to highlight the material in the previous pages and to discuss in some detail other activities of the Board in 1978 as they relate to the practice of medicine in the Commonwealth.

- a) Registration - The time-honored primary duty of the Board is to register physicians and physical therapists. January 15, 1976 was the



date of the first biennial reregistration. The problems associated with that procedure have been described above. For various reasons the process was not completed until near the end of that year.

The Board began in 1978 the design of a new form for reregistration which would prove adequate for the Board's statutory order that it "promote public health", and that would strike a balance between the right of confidentiality and the demand of the public for information concerning members of the medical profession. Advice of the Attorney General's Office has been followed in the development of the new form.

- b) Disciplinary Actions - The statute that established the Board of Registration and Discipline in Medicine in 1975 emphasized the disciplinary functions of the Board. This has been a difficult task. Restricted funds and lack of investigation have led to delays. When Orders to Show Cause have been issued, long hearings are necessary and the full machinery of the law has been necessary to complete each action. Sixteen adjudicatory cases were completed in 1978; there was a backlog of 23 cases on January 1, 1979; 10 of them were new cases in 1978, while the others were continued from previous years.

The Board revoked 7 licenses in 1978; fraud, and illegal dispensing of drugs were the usual causes. However, one license was revoked because of professional incompetence. It is of interest that in some states licenses have been revoked, and the revocation annulled immediately thereafter. The Board has not approved of this method; all revocations have been for a year or more.

The Board received 150 complaints in 1978; 69 of them had been resolved by January, 1979. A comparison of the number of complaints received and of eventual disciplinary actions indicates that the great bulk of complaints are decided in favor of the physicians.

- c) Medical Liability - The Board is not directly concerned with medical malpractice premiums, but responds to the Medical Malpractice Commission. The actions of the Commission have been strongly supported by the Board. The Commission has promoted many actions that have aided functions of the Board. For example, requests for more funds, legal aid, and investigations, and more independence for the Board have been urged by the Commission.

There are several encouraging features about the most recent report of the Commission. Premiums for 1979 for physicians are the same as in 1978; hospital premiums have been reduced. The tribunal system has functioned well, and general statutory changes have been suggested that will also improve in efficiency. Financial resources of the JUA have been built up to an impressive level; however, to date, there has not been interest by individual companies in returning to the Massachusetts market.

Theoretically, the Board should render an important service insofar as elimination of substandard physicians from practice. This should not only improve the practice of medicine, but result in fewer malpractice suits. At present it is impossible to prove that the Board has extended an important influence in this regard. However, the Board has initiated the



the following actions: (1) Evidence of continuing medical education will be required for reregistration in 1980 for all physicians in active practice; (2) Physicians who lose privileges in a hospital for other than minor administrative reasons must state this fact on their reregistration form; (3) In order to maintain a close observation of the trend of the malpractice problem, the Board also on the reregistration forms obtains the number of physicians who have been involved in a suit filed in the previous 2 years.

Malpractice insurance continues to pose a severe problem in California and Florida, but in other states, as in Massachusetts, the situation has eased from that of a year ago.

- d) Continuing Medical Education - It is recognized that it is difficult to prove that CME improves the practice patterns of physicians. However, after a protracted series of discussion the Board decided to introduce CME as a requirement for reregistration. This has led to the definitions of 3 classes of physicians in the state, as follows:

- 1) Physicians in active practice in Massachusetts - CME is required.
- 2) Inactive physicians - They do not practice medicine in Massachusetts, and cannot write prescriptions in Massachusetts - CME is not required.
- 3) Retired physicians - They do not practice, and cannot write prescriptions. Furnishing CME or reregistration is not required.

Inactive or retired physicians may become active if they so desire by payment of any required fees, and fulfilling CME requirements.

Full-time interns, residents or fellows in training programs are not required to have additional CME.

- e) Advertising - Following a series of decisions by the U.S. Supreme Court, the Attorney General for the Commonwealth advised the Board that complete restrictions on advertising by physicians would be illegal. As a consequence, the Board formulated rules and regulations concerning this practice. The pattern developed in New York State was followed closely. In essence, advertising is permissible if it is informative, accurate and not misleading. The exact details can be read in the rules and regulations of the Board. There was discussions as to whether or not advertising on radios or T.V. would be allowed, since tapes of the exact content theoretically would not be available. However, with assurance that such records would be kept, the Board approved the use of these media as well.

It should be noted that in some states advertising by doctors has been blatant, false, and misleading. This has posed a severe problem for the disciplinary bodies. On the other hand, in Massachusetts there has not been any rush by physicians to advertise, and to date, no examples that require action have been reported to the Board. The well-known reluctance of doctors to participate in such practice, and cost are important contributing factors.



- f) Medical Records - Statutes of the Commonwealth specify that hospital records must be made available to patients or to their representatives. There are no such requirements insofar as office records are concerned. The Board received many complaints from patients who were unable to obtain information or have insurance forms signed by doctors. Consequently, after protracted discussions and a public hearing, regulations were adopted which require physicians to give abstracts of records to patients, or to responsible persons (if in the doctor's opinion, it would be harmful to divulge abstracts to the patient). Since adoption of this rule, the Board has had several complaints from psychiatrists who do not favor it. Further experience will be necessary to determine whether or not any modification will be necessary.
- g) Ambulatory Care - In the past few years public scrutiny has been focussed on short-term general hospitals, since the major costs of medical care arise in that section. However, office practice and ambulatory care obviously are important areas in which professional care either is less strictly regulated or exists with essentially no guiding principles.

The Board in the case of Board v. Baer identified the essentials of adequate office care; i.e., an appropriate history, physical examination, documentation in a record, plan of therapy, and record of drugs or other therapeutic measures employed. Our investigations have shown that some physicians are extremely lax and have failed to keep adequate records. The Board is considering other ways in which this situation may be improved.

The Department of Public Health has been active in 1978 in developing rules and regulations that affect clinics and other ambulatory facilities. It is clear that the Board should be closely involved because it has jurisdiction over the professional qualifications of the physicians who are involved. During 1978, series of conferences were held by members from both organizations. Although the work was not completed in 1978, a revision of the rules and regulations of the Department of Public Health was formulated in draft form, as well as a suggested revision of the statutory definition of clinics. These actions should be completed in 1979.

- h) Physicians' Assistants - The Board maintains in its files a list of all physicians who employ physicians' assistants. On the other hand, there is no agency that has authority to register or to regulate the activities of physicians' assistants. During the year, a number of complaints have emphasized the necessity for a change in the present method. Sample problems that require solution include some items as: (1) what can be done with a physician's assistant when the supervising physician states he is incompetent? (2) can physicians' assistants write orders in hospitals and have nurses obey them? (3) can physicians' assistants be hired by hospitals rather than by physicians? (4) should the capabilities and appropriate rights and functions of physicians' assistants be defined more strongly than they are at present?



It seems clear that if physicians' assistants continue to increase in number, some mechanism must be established in the near future to control a situation that could become completely out of hand.

- i) Acupuncturists - At the present time there are, according to our investigations, only 29 acupuncturists practicing in Massachusetts; a number of physicians also administer acupuncture. The Board has been concerned with non-physicians who undertake the treatment of patients without preliminary examination by a physician, in order to determine whether or not a more appropriate treatment is in order. For example, one acupuncturist was referred to the Attorney General's Office for the practice of medicine without a license when he treated a patient for cancer.
- j) Nurses Practicing in the Expanded Role - The General Court directed the Board of Nursing with concurrence of this Board to develop rules and regulations for nurses practicing in the expanded role. These rules have been under intense study. A number of joint meetings of committees and boards as well as one public hearing have been held. By January 1, 1979, considerable progress had been made toward a resolution of differences between nurses and physician on many points; however, important differences remained that hopefully can be answered in 1979.

Nurses practicing in the expanded role includes 4 groups--nurse practitioners, mid-wives, psychiatric nurse mental health specialists and nurse anesthetists. Important issues include such items as:(1) the definition of generic nursing (2) the definition of nurses practicing in the expanded role as distinct from the definition of the practice of medicine (3) extent of supervision of nurses by physicians (4) the relations of various hierarchies of health care workers; i.e., physicians, nurses practicing in the expanded role, generic nurses, and physicians' assistants (5) the writing of prescriptions by others than physicians.

- k) Other Issues Faced by the Board - There are many other issues that are of immense importance to the practice of medicine that may concern the Board in the near future. Some items include the high cost of medical care (which is reflected in some complaints received by the Board), tightening of the requirements for licensure, and the influence of recertification by Specialty Boards or societies, the growth of group practices (that will include nurse practitioners and physicians' assistants as well as physicians), and the enormous task of dealing with the disciplinary actions of the Board.
- l) During the year the Board has been investigated thoroughly by several agencies. They have recommended extensive expansion of our facilities and personnel. There is no doubt that our services could be made more effective and rapid if these recommendations were adopted. The Board has requested in its budget for 1980 necessary funds to implement these recommendations. It will be up to the administration and the legislature to act wisely on our request.



TABLE I

BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE  
FY '78 Complaint Disposition by Complaint Committee

Description	Total	Closed	Pending	Informal Conference	Board to Follow Up
<u>Jurisdictional</u>					
Negligent or Misdiagnosis	54	27	27	5	
Sexual Involvement	3	0	3	0	
Fraud	14	9	5	1	
Drug Cases	15	5	10	1	
Confirmed Alcohol or Drugs	1	1	0	1	1
Informed Consent	2	2	0	0	
Other	10	8	2	0	
SUBTOTAL	99	52	47	8	
<u>Questionable</u>					
<u>Jurisdiction</u>					
Medicaid Refusal	1	1	0	1	
Refusal to Complete Forms	2	1	1	0	
Other	48	15	33	1	
SUBTOTAL	51	17	34	1	
TOTALS	150	69	81	10	1

Source: Board of Registration and Discipline in Medicine Complaint Docket.

This table includes only complaints received after July 1, 1977 and closed before June 30, 1978, and should be considered together with Table II.

TABLE II

## BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

FY 78 Types of Complaints Requiring Formal Disciplinary Action by Board\*

Description	Cited	Exoneration- Dismissal	Revocation	Resignation	Other Disciplinary Action
<u>Jurisdictional</u>					
Negligent or Misdiagnosis	2 <sup>x</sup>		1		
Sexual Involvement	2	1			
Fraud	3		1		
Drug Cases	4	2		3	2 + 1
Confirmed Alcohol or Drugs					
Informed Consent					
Other		1			
SUBTOTAL	11				
<u>Questionable</u>					
<u>Jurisdiction</u>					
Medicaid Refusal		1			
Refusal to Complete Forms					
Other					
SUBTOTAL					
TOTALS	11	5	2	3	3

Source: Board of Registration and Discipline in Medicine Complaint Docket.

2<sup>x</sup>: 1 case involves 7 physicians

\*: The reader is cautioned here that this table refers to formal disciplinary decisions within a fiscal year. None of our cases are concluded within a fiscal year.



TABLE III

## BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Determination in Disciplinary Cases - Calendar 1978

Case	H.O.	Log In	Show Cause	Under Prosecution	Recommended Disposition Date	Board Sentence	Final Order	Time
Kalish	Div. H.O.	9-7-76	9-10-76	-	-	Resigned 12-78	12-78	27 mos.
Breed	Annas	9-3-76	10-1-76	-	Revocation 9-30-77	Revocation	2-78	16 mos.
Manfredi	Div. H.O.	1-15-76	10-1-76	-	Revocation 4-1-77	Resignation 1-78	4-10-78	27 mos.
Baer	Div. H.O.	9-20-76	10-1-76	-	6-2-77	Revocation	7-14-78	22 mos.
Schwartz	Div. H.O.	12-30-76	10-15-76	-		Revocation	10-6-78	22 mos.
Levy	Div. H.O.	11-23-76	12-3-76	-	Stipulations	Revocation	11-78	24 mos.
Foraste	Welch	1-12-77	3-4-77	-	Exonerated	Exoneration	2-14-78	13 mos.
Gumban	Div. H.O.	9-29-76	3-4-77	-	12-15-77	Revocation	7-14-78	22 mos.
Barton	Div. H.O.	7-25-76	3-4-77	-	Dismissal	Dismissed	2-17-78	19 mos.
Lynch	Annas	1976	5-20-77	-		Order to Show Cause-Withdrawn	6-78	27 mos.
Davidson	Div. H.O.	5-20-77	5-20-77	-	Stipulations	Revocation	11-10-78	19 mos.
Haley	Cassidy	1975	5-20-77	-		Resignation 10-10-78	10-13-78	
Hershberg	Div. H.O.	8-1-75	11-5-76	-	Stipulations	Order of Reprimand	2-21-78	30 mos.
Clarke	Div. H.O.	6-1-77	6-10-77	-	Stipulations	DEA Number Surrendered	11-29-78	17 mos.
Duby	-	6-14-76	4-8-77			Defendant Died-Dismissed	10-77	16 mos.
Weiser	Div. H.O.	8-4-76	4-8-77		Stipulations 6-29-77	Revocation 3-78	2-17-78	18 mos.
Kudish	H.O.	10-21-77	9-2-77			Resignation 5-26-78	5-26-78	7 mos.

TABLE III (Continued)

Case	H.O.	Log In	Show Cause	Under Prosecution	Recommended Disposition Date	Board Sentence	Final Order	Time
Carr		9-16-76		-		Exonerated 2-78	2-21-78	17 mos.
Bannen	Annas	7-12-76	5-77	-		Censure 4-78	4-78	21 mos.
Kreplick	Div. H.O.	5-11-77	3-3-78	-		Case Dismissed 11-78	12-14-78	19 mos.
Srisuwan- saksa		7-3-78	7-26-78	-		Order to Show Cause Withdrawn	9-5-78	2 mos.
Thompson		2-76		-		Resignation 2-17-78	2-78	24 mos.
Edelstein		10-75		-		Defendant Died 2-17-78	1-78	27 mos.



TABLE IV  
BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE  
Adjudicatory Cases Pending as of January 1, 1979

Case	H.O.	Log In	Show Cause	Under Prosecution	Recommended Disposition Date	Board Sentence	Final Order	Time
Kobroski	Div. H.O.	5-27-76	10-1-76	Remanded				
Civil Service	Div. H.O.	1975	4-13-76	X				
Arthurs	Div. H.O.	4-26-76	10-15-76	X				
Lozano	Div. H.O.	9-3-76	10-15-76	Stipulations Filed 7-13-78				
White	Div. H.O.	9-20-76	10-15-76	X				
Jordan	Div. H.O.	3-18-76	1-21-77	X				
DeLorenzo	Div. H.O.	5-17-77	6-10-77		11-78			
Hammer	Welch	9-2-77	9-2-77		10-11-78			
Cardio- Thoracic	Baron	3-2-76	12-2-77	X				
Claydon	H.O.	5-9-77	12-2-77	X				
Eramo	H.O.	4-21-76	12-2-77	X				
Gillies	Cloutier	1-25-77	12-12-77	X				
Masi	Welch	8-29-77	12-16-77	Completed 9-78				
Fossner	Div. H.O.	2-15-78	5-26-78	X				
Brennan	Annas	7-26-76	5-26-78	X				
Raymond	Annas	11-18-76	5-26-78	X				
Carter	Div. H.O.	1976	5-26-78	X				
Bartlett		1-5-78	6-29-78	X				
Gold	Benn	4-10-78	7-14-78	X				
Berni	H.O.	7-29-78	9-37-78	X				
Gauthier	H.O.	9-5-78	11-10-78	X				
London		6-1-78	7-25-78		Stipulations 4-78			
Sands	H.O.	10-4-77	12-4-78	X				

TABLE V

BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Volume of Business - Registration of Physicians  
(Fiscal Year 1978)

<u>Year</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Endorsements, National Boards	749	774	891	810	888
Endorsements, Other States	228	404	460	344	299
FLEX Examination	113	134	243	631	395
Total Full Registration	1155	1312	1594	1835	1582
Limited Registration	2138	2564	3124	2705	2733
Medical Assistants	730	361	556	-	-

Source: Board of Registration and Discipline in Medicine-Cash Receipts

TABLE VI

(Fiscal Year 1978)

Volume of Business - Registration of Physical Therapists

<u>Year</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
Endorsements	--	81	100	108	121
Examinations	180	123	140	183	196
Renewals	1559	109	1861	110	2249

Source: Board of Registration and Discipline in Medicine-Cash Receipts

TABLE VII

(Fiscal Year 1978)

Volume of Business - Complaints

Total Received.....	150
Total Closed.....	69
Withdrawn.....	0
Cases Still Pending.....	81

Source: Board of Registration and Discipline in Medicine-Cash Receipts



TABLE VIII  
BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Income - Fiscal 1978

Two Fiscal Periods Ending June 30, 1978

	<u>1977</u>	<u>1978</u>	<u>Increase (Decrease)</u>
Analysis of Receipts:			
Medicine:			
National Board - Physicians and Surgeons	\$ 59,775.00	\$ 66,600.00	\$ 6,825.00
Endorsements - Physicians and Surgeons	25,800.00	22,650.00	(3,150.00)
Examinations - Physicians and Surgeons	85,125.00	63,250.00	(21,875.00)
Reexaminations - Physicians and Surgeons	16,650.00	20,550.00	3,900.00
Renewals	22,550.00	738,150.00	715,600.00
Limited Registrations - Interns	13,530.00	13,665.00	135.00
Temporary Licenses	200.00	200.00	-
Medical Students	4.00	-	(4.00)
Certified Statements	2,059.00	2,337.00	278.00
M.D. Certifications	3.00	-	3.00
Physical Therapy:			
Examinations	9,150.00	9,250.00	100.00
Reexaminations	200.00	275.00	75.00
Endorsements	2,700.00	3,025.00	325.00
Renewals	1,105.00	22,490.00	21,385.00
Certified Statements	130.00	90.00	(40.00)
Miscellaneous	11.50	101.30	89180
	<u>\$238,992.50</u>	<u>\$962,633.30</u>	<u>\$723,640.80</u>

Source: Report on the Examination of the Accounts of the Board of Registration and Discipline in Medicine - March 2, 1977 to July 31, 1978 No. 79-6-S-117

TABLE IX

BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Two Fiscal Periods Ending June 30, 1978

	<u>1977</u>	<u>1978</u>	<u>Increase (Decrease)</u>
Appropriations (Account #9230-0150)	\$ 17,233.00	\$ 80,000.00	\$ 62,767.00
Allocations from the Division of Registration (Account #9230-0001)	<u>169,022.70</u> <u>\$186,255.70</u>	<u>175,989.32</u> <u>\$175,989.32</u>	<u>6,966.62</u> <u>\$ 69,733.63</u>
Disbursements	\$171,209.83	\$166,483.66	(\$ 4,726.17)
Encumbrances	-	89,491.43	89,491.43
Expenditures	\$171,209.83	\$255,989.32	\$ 69,733.62
Reverted	2,398.79	14.23	(2,384.56)
Returned to Division	<u>12,647.08</u> <u>\$186,255.70</u>	<u>-</u> <u>\$255,989.32</u>	<u>(12,647.08)</u> <u>\$ 69,733.62</u>
Receipts Account of Income	<u>\$238,992.50</u>	<u>\$962,633.30</u>	<u>\$723,640.80</u>
Excess of Receipts Over Expenditures	<u>\$ 67,782.67</u>	<u>\$706,658.21</u>	<u>\$638,875.54</u>
Analysis of Expenditures:			
Salaries - Board Members	\$ 12,699.00	\$ 15,700.00	\$ 3,031.00
Salaries - Permanent Employees	41,832.37	41,101.18	(731.19)
Salaries - Other	29,897.61	47,839.92	17,942.31
Services - Non-employees	5,822.25	44,049.10	38,226.85
Travel and Automotive Expenses	2,185.49	4,700.00	2,514.51
Advertising and Printing	1,072.41	1,311.78	239.37
Repairs, Replacements and Alterations	122.19	116.23	(5.96)
Special Supplies and Expenses	62,570.30	69,622.40	7,052.10
Office and Administrative Expenses	7,264.87	14,855.52	7,590.65
Equipment	457.20	2,296.00	1,838.80
Rentals	<u>7,316.14</u> <u>\$171,209.83</u>	<u>14,382.96</u> <u>\$255,975.09</u>	<u>7,066.82</u> <u>\$84,765.26</u>

Source: Report on the Examination of the Accounts of the Board of Registration and Discipline in Medicine - March 2, 1977 to July 31, 1978  
No. 79-6-S-117



TABLE X  
BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE  
Income Versus Appropriations

<u>Fiscal Year</u>	<u>Income</u>	<u>Expenditures</u>	<u>Income Reverted To General Fund</u>	<u>%</u>
1974	\$141,906	\$ 62,519	\$ 79,399	55%
1975	160,684	70,398	90,285	56%
1976	847,510	154,798	691,294	81%
1977*	238,992	186,255	67,782	28%
1978*	962,633	255,989	706,658	73%

\* 1977-1978 Comptroller's Audit - Figures were adjusted from those published in last year's Annual Report.

Sources: 1974-1975-1976 Board of Registration and Discipline in Medicine-Cash Receipts and Budget Request FY 1978.

TABLE XI  
BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Time Utilization - Board Members

O = Time spent working in office, Board meetings and hearings  
NO = Work at home, another office or attending meetings

	Welch	Annas	Cloutier	Benn	Cassidy	Shapiro*	Donahue
	<u>O - NO</u>	<u>O - NO</u>	<u>O - NO</u>	<u>O - NO</u>	<u>O - NO</u>	<u>O - NO</u>	<u>O - NO</u>
July 1977	3 1	1 2	7	1 4	1 2	1	1
Aug. 1977	2 1	2 3	5	1 4	1 3		1
Sept. 1977	1 3	2 9	15	2 3	20 9	2	1
Oct. 1977	2 4	2 3	15	2 3	15		1
Nov. 1977	2 2	2 2	13	2 2	2 13		2
Dec. 1977	2 5	1 1	12	5 2	8		4
Jan. 1978	2 1	1 4	14	1 3	2 7		
Feb. 1978	1 8	1 3	13	1 3	1 6		
Mar. 1978	1 6	3 3	18	3 4	1 1	Harris** 1 2	
Apr. 1978	2 2	2 3	12	2 2	4	2	
May 1978	2 1	3 2	19	2 2	12 3	2	
June 1978	2 2	2 6	19	1 2	13 4	1	
Totals	22 36	22 41	162	23 34	80 48	* **	10

\* Shapiro      O = 3  
                  NO = 0  
\*\* Harris      O = 6  
                  NO = 2



TABLE XII

BOARD OF REGISTRATION AND DISCIPLINE IN MEDICINE

Time Utilization - Board Meetings 1978

	<u>Welch</u>	<u>Annas</u>	<u>Cloutier</u>	<u>Benn</u>	<u>Cassidy</u>	<u>Donahue</u>	<u>Shapiro</u>
Jan. 5	X	-	X	-	X	X	-
Jan. 27	X	X	X	X	X	-	-
Feb. 17	X	X	X	-	X	X	-
Mar. 3	X	X	X	X	X	X	-
Mar. 31	X	X	X	X	X	X	X <u>Harris</u>
Apr. 14	X	X	X	X	-	-	X
Apr. 21	X	-	X	X	X	X	X
May 15	X	X	X	-	X	-	X
May 26	X	X	-	X	X	X	X
June 9	X	X	X	X	X	-	X
June 29	X	X	X	-	X	X	X
July 14	X	X	X	X	X	X	X
Aug. 25	X	X	X	X	X	<u>Mogul</u> -	X
Sept. 8	X	X	X	X	X	X	X
Sept. 22	X	X	X	X	X	X	X
Oct. 6	X	X	X	X	X	X	X
Oct. 27	X	-	X	X	X	-	X
Nov. 10	X	X	X	X	X	X	X
Dec. 1	X	X	X	X	-	X	X
Dec. 15	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
						*	
Totals	20	17	19	16	18	**	***

\* Donahue 9 out of 12

\*\* Mogul 6 out of 8

\*\*\* Harris 16 out of 16

Sources: Minutes of Meetings 1978  
Board of Registration and Discipline in Medicine